

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Omolade	Team: Team # 2	CCRB Case #: 201114779	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/07/2011 6:12 PM	Location of Incident: On Rogers Avenue between Tilden Avenue and Beverly Road	Precinct: 67	18 Mo. SOL 5/7/2013	EO SOL 5/7/2013	
Date/Time CV Reported Wed, 11/09/2011 12:46 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/15/2011 11:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM John Sears	05952	949650	PBBS
2. SGT Kevin Donnelly	00576	933752	PBBS

Officer(s)	Allegation	Investigator Recommendation
A.POM John Sears	Off. Language: PO John Sears made remarks to § 87(2)(b) based upon race.	[REDACTED]
B.POM John Sears	Discourtesy: PO John Sears acted rudely toward § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

§ 87(2)(b) called the Internal Affairs Bureau Command Center to file a complaint on November 9, 2011 (encl. 3). IAB Log # 11-51732 was generated and the case was received at the CCRB on November 15, 2011. On November 7, 2011, at approximately 6:12 p.m., § 87(2)(b) was pulled over for disobeying a stop sign. PO John Sears and Sgt. Kevin Donnelly approached § 87(2)(b)'s vehicle and the following allegations resulted:

Allegation A: Offensive Language: PO John Sears made remarks to § 87(2)(b) based upon race.

Allegation B: PO John Sears acted rudely toward § 87(2)(b) § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) accepted mediation and the case was sent to the mediation unit on November 30, 2011. On December 1, 2011, § 87(2)(b) rejected mediation and the case was sent back to investigation.

Results of Investigation

Civilian Statement:

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on November 18, 2011 (encl. 5A-C). He also made a statement when he filed a complaint on November 9, 2011. On November 7, 2011, at approximately 6:12 p.m., § 87(2)(b) was pulled over by two officers, identified via investigation as, PO John Sears and Sgt. Kevin Donnelly, on Rogers Avenue between Tilden Avenue and Beverly Road in Brooklyn for disobeying a stop sign. PO Sears requested § 87(2)(b)'s license and registration, which he provided. § 87(2)(b) disputed that he ran the stop sign. PO Sears prepared the summons in his patrol car and then returned to § 87(2)(b)'s vehicle. PO Sears threw § 87(2)(b)'s license, registration and summons on § 87(2)(b)'s lap and said, "here, just take the damn ticket you dumb nigger." PO Sears and Sgt. Donnelly then entered their vehicle and drove away. In § 87(2)(b)'s initial complaint, he stated that PO Sears threw a summons for disobeying a stop sign at him and said "shut up nigger."

An individual, who identified himself to § 87(2)(b) as § 87(2)(b) was standing nearby and witnessed what transpired. § 87(2)(b) exited his vehicle and asked § 87(2)(b) if he saw what happened. § 87(2)(b) said that he did and provided his information to § 87(2)(b)

Attempt to contact civilians

§ 87(2)(b)

Between January 6, 2012, and March 6, 2012, § 87(2)(b) was contacted via telephone three times to get § 87(2)(b)'s number. Each time § 87(2)(b) stated that he would call back. On March 13, 2012, § 87(2)(b) was contacted via telephone, at which time he provided § 87(2)(b)'s telephone number. On March 13, 2012, § 87(2)(b) was contacted via telephone and a message was left for him to call the CCRB.

On March 13, 2012, § 87(2)(b) called the CCRB (encl. 6). On November 7, 2011, at approximately 6:12 p.m., § 87(2)(b) was walking on Rogers Avenue in Brooklyn when, he saw § 87(2)(b) in his vehicle. § 87(2)(b) also saw an officer, identified via investigation as, PO John Sears, throw a summons at § 87(2)(b) and told him get the "fuck" out of here. § 87(2)(b) later stated that PO Sears said "Take that nigger" and then threw the summons at § 87(2)(b). § 87(2)(b) was ten to fifteen feet away from PO Sears when he said this and his partner, Sgt. Donnelly, was in the car. Both officers left and § 87(2)(b) asked him if he saw what happened. § 87(2)(b) said that he did and exchanged his contact information with § 87(2)(b). § 87(2)(b) could not come into the CCRB for an official interview as he was outside of New York indefinitely. § 87(2)(b) stated that he has not spoken to § 87(2)(b) since the incident and did not know § 87(2)(b). Between March 16, 2012, and April 2, 2012, § 87(2)(b) was contacted four more times to get a notarized statement. On one occasion, a message was left for § 87(2)(b) to call the CCRB, and every time thereafter, his number was disconnected and a message could not be left. A letter could not be sent since, there was no address listed for § 87(2)(b) in the Complaint Tracking System. A Lexis Nexis database search could not be conducted because § 87(2)(b)'s address was not obtained and his name was common.

NYPD Statements:

Subject Officer: POLICE OFFICER JOHN SEARS

- § 87(2)(b) -old white male, 5'10", 174 pounds with black hair and brown eyes.
- On November 7, 2012, PO Sears worked from 4:00 p.m., until 12:00 a.m., the following day, assigned as the operator for Sgt. Donnelly to marked patrol car # 4505. Both officers were dressed in uniform.

Memo book (encl. 7B-D)

At 6:10 p.m., a car stop was conducted at Beverly Road and Rogers Avenue in Brooklyn. At 6:12 p.m., a summons was issued to § 87(2)(b) residing at § 87(2)(b), License § 87(2)(b), DOB § 87(2)(b). § 87(2)(b) He was the only person in the vehicle. Summons # § 87(2)(b) at Beverly Road and East 28th Street in Brooklyn.

CCRB Statement

PO Sears was interviewed at the CCRB on January 27, 2012 (encl. 7E-F). On November 7, 2011, at approximately 6:12 p.m., PO Sears observed § 87(2)(b) disobey a stop sign at East 28th Street and Beverly Road in Brooklyn. § 87(2)(b) was pulled over with lights and sirens by PO Sears and Sgt. Donnelly on Beverly Road and Rogers Avenue in Brooklyn. PO Sears approached § 87(2)(b) and asked him for his license and registration. § 87(2)(b) willingly provided it to PO Sears. PO Sears and Sgt. Donnelly went back to their vehicle, where PO Sears prepared a

summons. PO Sears returned to § 87(2)(b)'s vehicle and issued him a summons for disobeying the stop sign. PO Sears also explained to § 87(2)(b) how to resolve the summons.

PO Sears told § 87(2)(b) to drive safely and walked away. As PO Sears walked away, § 87(2)(b) became belligerent and agitated. § 87(2)(b) then screamed and yelled. PO Sears did not hear anything that § 87(2)(b) was said. There were no civilians in the area at this time. PO Sears never told § 87(2)(b) to take the "damn ticket" or refer to him as a dumb nigger. PO Sears did not make any remarks to § 87(2)(b) based on his race. PO Sears did not respond to any of the comments § 87(2)(b) made toward him.

Subject Officer: SERGEANT KEVIN DONNELLY

- § 87(2)(b) -old white male, 5'11" tall, 180 pounds with blonde hair and blue eyes.
- On November 7, 2011, Sgt. Donnelly worked from 2:50 p.m., until 11:47 p.m., as the impact sergeant working with PO John Sears. Both officers were dressed in uniform and assigned to vehicle # 4505.

Memo book

Sgt. Donnelly did not make any memo book entries regarding this incident.

CCRB Statement

Sgt. Donnelly was interviewed at the CCRB on January 27, 2012 (encl. 8A-B). On November 7, 2011, at approximately 6:12 p.m., Sgt. Donnelly and PO Sears conducted a car stop on § 87(2)(b) for disobeying a stop sign. PO Sears made the observation and § 87(2)(b) was pulled over with lights and sirens. PO Sears approached § 87(2)(b) on the driver's side and Sgt. Donnelly approached him on the passenger side of the vehicle. § 87(2)(b) provided his license and registration to PO Sears. Sgt. Donnelly did not hear the nature of the exchange between PO Sears and § 87(2)(b). Both Sgt. Donnelly and PO Sears went back to their vehicle.

PO Sears wrote the summons and both officers returned to § 87(2)(b)'s vehicle. PO Sears issued § 87(2)(b) a summons for disobeying the stop sign. § 87(2)(b) was upset that he was issued a summons. § 87(2)(b) was also became loud however, Sgt. Donnelly did not recall what he was saying. Sgt. Donnelly did not recall if there were any civilians in the area. At this time, § 87(2)(b)'s demeanor did not change. At no time did Sgt. Donnelly hear PO Sears tell § 87(2)(b) to take the "damn ticket" or refer to him as a dumb nigger." Sgt. Donnelly never heard PO Sears make any remarks toward § 87(2)(b) based upon his race.

NYPD Documents:

Roll call (encl. 11A-H)

The 67th Precinct roll call confirmed that PO Sears and Sgt. Donnelly were working together and assigned to marked patrol vehicle #4505 on November 7, 2011.

Summons/Arrest for Incident and Disposition

- Summons # § 87(2)(b) remains open and the next court date is in § 87(2)(b).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 23, 2012, with regard to the incident on November 7, 2011 (encl. 13).

Civilian's Criminal History

- As of March 1, 2012, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) (encl. 12A-D).

Civilian's CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2C).

Subject Officer's CCRB History

- PO Sears has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl. 2A).
- Sgt. Donnelly has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 2B).

Conclusion

Identification of Subject Officer

The summons issued to § 87(2)(b) confirmed PO Sears's presence on the scene. PO Sears acknowledged interacting with § 87(2)(b)

Investigative Findings and Recommendations:

Allegation A: Offensive Language: PO John Sears made remarks to § 87(2)(b) based upon race.

Allegation B: PO John Sears acted rudely toward § 87(2)(b)

It is not disputed that § 87(2)(b) was pulled over and issued a summons for disobeying a stop sign by PO Sears. In dispute, is whether PO Sears used any offensive language toward § 87(2)(b) based on his race and threw the summons at § 87(2)(b)

Patrol Guide Procedure 203-10 (Enc. 1D-E) regarding prohibited conduct states, "Using discourteous or disrespectful remarks regarding another person's ethnicity, race, religion gender or sexual orientation"

§ 87(2)(b) stated when PO Sears issued him the summons, he threw it on § 87(2)(b)'s lap and said "Here, just take the damn ticket. You dumb nigger." § 87(2)(b) stated that PO Sears threw the summons at § 87(2)(b) and told him get the "fuck" out of here. § 87(2)(b) later altered his statement and said PO Sears said "Take that nigger" and then threw the summons.

PO Sears stated that he never made any remarks to § 87(2)(b) based on his race. PO Sears stated that he handed § 87(2)(b) the summons and as he walked away, § 87(2)(b) became loud and belligerent. PO Sears never heard anything § 87(2)(b) might have said. PO Sears stated that he did not respond to any of § 87(2)(b)'s comments. In addition, at no point during the incident did Sgt. Donnelly ever hear PO Sears say to § 87(2)(b) "Here, just take the damn ticket. You dumb nigger" nor did he hear PO Sears make any remarks toward § 87(2)(b) based upon his race.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: _____

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Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date